



CITY OF PHILADELPHIA

POLICE DEPARTMENT
HEADQUARTERS, FRANKLIN SQUARE
PHILADELPHIA, PENNSYLVANIA 19106

RICHARD J. ROSS, JR.
Commissioner

February 27, 2019

Mr. Michael Dank
67030-78873830@requests.muckrock.com

RE: Pennsylvania Right-To-Know Act (RTKA) Request

Dear Mr. Dank,

Your Pennsylvania Right-To-Know Act request dated 01-06-19 was received by this office on 01-07-19 for:

1. Number, if any, of Facial Recognition software of Facial Recognition-enabled equipment in place with this department or agency. Please specify if software has been purchased or if services are performed by outside contractors for the department or agency. Please include pilot or testing programs within the scope of this request.
2. Any documents or correspondence during the period encompassing this request regarding possible or planned acquisition of Facial Recognition software packages, Facial Recognition-enabled equipment or service agreements.
3. Any existing or proposed usage policies regarding the use of Facial Recognition software or Facial Recognition-enabled equipment, including protocols, training documents, data storage procedures and prohibited activities.
4. Any current or past litigation involving or referencing this department or agency involving the use of Facial Recognition software or Facial Recognition enabled equipment.

On 01-11-19, correspondence was sent to you acknowledging receipt of your request.

- a. to ascertain if the requested record does exist,
- b. for legal review to determine whether the record(s) is a record(s) subject to access under the Act,
- c. to determine if the request requires the redaction of a public record(s), and
- d. for bona fide staffing limitations (in retrieving and reviewing the record(s) requested).

After processing your request, the Philadelphia Police Department determination is as follows:

Your request ***cannot be granted in part and is denied in part***, and as set forth below.

At the outset, your request is ***misdirected***. Your request appears to seek records that may be under the custody and control of the Pennsylvania Justice Network. The City of Philadelphia Police Department does not possess the records requested, and thus ***cannot grant*** the request. It is not a denial of access under the Act if the records do not exist within the Department's possession. *Cf. Jenkins vs. Pennsylvania Department of State*, Docket No. AP 2009-0065 (OOR April 2, 2009). However, the Department reserves its rights to assert bases for denial if additional responsive records are located after a review of such records.

By way of further response and without waiving the foregoing, you may be able to send your request to JNET directly. As a courtesy to you, please follow this link for further information.

<http://www.pajnet.pa.gov>

Your request is also ***denied*** pursuant to Section 705 of the Right-to-Know Act, in which when responding to a request for access, an agency shall not be required to create a record which does not currently exist or to compile, maintain, format, or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record. *Cf. Jenkins vs. Pennsylvania Department of State*, Docket No. AP 2009-0065 (OOR April 2, 2009).

This response will serve to close this particular request for information with our office as permitted by law. Thank you for contacting the Philadelphia Police Department's Open Records Office.

FOR THE POLICE COMMISSIONER

Sincerely,

A handwritten signature in black ink that reads "Lt. Barry Jacobs #97". The signature is written in a cursive, flowing style.

Lieutenant Barry Jacobs
Open Records Officer
Philadelphia Police Department
750 Race Street, Room 203
Philadelphia, PA 19106
FAX: 215-686-1183
Email: police.righttoknow@phila.gov